SPEECH

OF

MR. DROMGOOLE, OF VIRGINIA,

ON

THE ANNEXATION OF TEXAS:

DELIVERED

IN THE HOUSE OF REPRESENTATIVES,

JANUARY 24, 1845.

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SPEECH.

Mr. DROMGOOLE commenced by remarking that he had little hope, in addressing the committee, of being able to add anything to the interest or novelty of a subject which had been so long discussed. It must have become, notwithstanding its vast and exciting character, in some degree stale. The deep attention heretofore justly bestowed on the style, ability, and matter of debate, must naturally be growing languid. Notwithstanding, however, that the patience of the committee, and the topic of debate, are alike exhausted, he still felt it to be a duty which he owed his constituents, and from which he ought not to shrink, to express his views before the close of this discussion. He addressed the committee, then, from a solemn sense of duty to those he represented, united, he confessed, to an anxious wish to be properly understood in the judgment of his countrymen.

It is usual (said Mr. D.) to begin by announcing the particular subjects which the speaker will discuss. I shall (said he) so far depart from this accustomed method as to announce what topics I shall not discuss. I shall not discuss the treaty of 1803, for the purpose of ascertaining the extent of our territorial acquisitions thereby accomplished. I shall not examine the provisions of the treaty of 1819, to learn what, if any, was the extent of territory we thereby ceded or abandoned. No, sir, the United States have acquiesced in these treaties. Texas has been peopled by hardy, brave, and enterprising emigrants from our own borders. They have gallantly achieved their own independence—they have manfully maintained it—they have successfully defended their territory and their homes. We have recognised their independence—we have negotiated with them as a free and sovereign republic. It does not *become* us to revive any latent or dormant claim to the soil or the people. If we ever had just claim to the territory inhabited by these fearless adventurers, (and that I shall not question or debate,) if we did not lawfully cede it by the treaty of 1819, we have surely, long since, absolutely abandoned it. By public acknowledgment and by treaty stipulations we have admitted that Texas is rightfully held and independently governed by its own proper citizens; and we are thus *indubitably* estopped from reviving or reasserting any obsolete title. I repeat, then, I will not go back to either of those treaties to derive argument, or evince research. In my entire examination of the proposed measure of *uniting* Texas to the United States, I must regard the former as an independent and sovereign republic.

In reference to the constitutional power, on our part, of accomplishing this great proposition, gentlemen have adverted to the rules of construction applied to the case of the will mentioned in the humorous Dean Swift's tale of a tub. I shall make no additional commentary thereon, but beg leave to refer gentlemen, who have manifested interest in this will case, and who may desire to pursue their investigations, to an entire essay written by a distinguished statesman of Virginia. By turning to the seventeenth or last section of this book, (holding it in his hand,) they will find it, though consisting of several pages, wholly devoted to an examination of the principles of construction adopted in this will case. The book is entitled "New Views of the Constitution," and is from the pen of the celebrated John Taylor, of Caroline. From it, sir, they will readily perceive what political party in the United States most resembles the son in the latitudinous construction of his father's will.

Heretofore (said Mr. D.) the examination of general principles has mainly engrossed the efforts of the supporters of the measure, without such an application of them as to indicate a decided preference for any particular proposition. The rapidly approaching time when this debate must terminate, when we must by voting, and not by speaking, come to some decision, admonishes us of the necessity of bringing into conflict and comparison the different projects presented by the professed friends of annexation. In no other mode can we reconcile conflicting views, and harmonize the sincere efforts of all anxious for the completion of this great scheme. I will be permitted, then, to say in the outset, that I cannot, I will not, vote for the proposition hastily introduced from the Committee on Foreign Affairs. For myself, I regard it as the last, the expiring effort of this Tyler administration on the Texas question. A treaty had been hastily and inconsiderately negotiated, as many believed, at a

time when wise, prudent, eminent statesmen in this country considered that an unexpired armistice between Texas and Mexico presented difficulties in our way which ought not to have been overlooked or disregarded.

This treaty had been deliberately rejected by the Senate, to whom the power belonged, to ratify or reject. It not only failed of confirmation for want of the vote of two-thirds of that body, but was rejected by a majority. And now, after this act of rejection by the Senate in the exercise of their constitutional power, and in discharge of a high duty, an attempt is made here, in this branch of the legislature, to adopt or approve a defunct treaty, *in totidem verbis!* An effort is made, by mere act of legislation by Congress, to revive and ratify a rejected treaty! I would not aid in the consummation of any such scheme of disrespect. I could not vote for the proposition, for want of constitutional power.

But apart from the peculiar objections to the plan reported by the Committee on Foreign Affairs, there is, in my humble judgment, an insuperable impediment to the acquisition of *territorial possessions* by legislative act. As a mere *territory* to belong to the United States, the annexation of Texas is beyond the limits of the powers confided to the legislative department of the federal government. The power of acquiring foreign territory for the United States, I do not mean to question. That such a power does belong and rightfully belong to the United States, I firmly believe. The right of acquiring territorial possessions confessedly belongs to sovereign and independent States. Had each State remained separate, and without forming this intimate union, each might have extended its territorial limits. Each has divested itself of the separate exercise of this attribute of sovereignty. It is by compact and agreement to be exercised by *all jointly*, through the agency of their common government. It has been transferred by the States to the federal government, to be exercised in behalf of the whole Union. The proposition maintained by me is, that it is to be exercised through the treaty-making power. The acquisition of territory by one government from another is necessarily an international transaction. It implies proposals, terms, conditions; it requires conference and consultation; intercourse between the parties is indispensable to the conclusion of their agreement—to their stipulations as to the lands to be ceded by the one, and the equivalents to be paid by the other. Is it not, therefore, in its very nature the subject of negotiation and treaty? I will not pursue this argument more elaborately—the principle has been settled in this country. But, in my researches, (said Mr. D.,) I have found an argument in favor of the doctrine now maintained, admirably and conclusively urged by a gentleman now on this floor—the venerable gentleman from Massachusetts, [Mr. Adams,]—in a communication made many years ago to your own constituents, Mr. Chairman, (Mr. Hopkins of Virginia being in the chair,) as far back as the year 1823, and which may be found published in the columns of the Richmond Enquirer. That gentleman had been attacked politically, and accused, unjustly accused, of being opposed to the acquisition of Louisiana, and to the ratification of Mr. Jefferson's treaty for that purpose. The vote of that gentleman in the Senate of the United States, to ratify the treaty, and to appropriate the requisite amount of money to pay the stipulated price, disproved the charge. The admirable and conclusive argument of the gentleman in favor of the treaty-making power was so much better than anything he could express, that he begged it might be read at the Clerk's table, as he had caused it to be transcribed:

Extract from a letter of John Q. Adams to the freeholders of Washington, Wythe, Grayson, Russell, Tazewell, Lee, and Scott counties, Virginia.

"Gen. Smyth has, therefore, done me great injustice in drawing from these votes the conclusion that I was governed in giving them either by principles of faction or by hostility to Louisiana. It is well known to all those with whom I acted at the time, as well those whose votes concurred with mine as those who sanctioned by their votes these assumptions of constructive powers, that my voice and opinions were IN FAVOR of the acquisition of Louisiana, and of the ratification of the treaty by which it was acquired. The power TO MAKE TREATIES is, by the constitution, given to the 'President,' with the concurrence of two thirds of the 'senators' present upon the question for their advice and consent, WITHOUT LIMITATION. It extends to whatever can form the subject of TREATIES between sovereign and independent nations. Of the power to make the treaty, therefore, I had no doubt, as having been granted by the constitution. But the power to make a treaty, and the power to carry it into execution, are, by the organization of our government, not the same. The former is merely a transaction with a foreign nation. To have limited that would have been to limit the power of the nation itself in its relations of intercourse with other States. It would have been an abdication by the nation itself of some of the powers appertaing to sovereignty, and have placed it on a footing of inequality with other sovereigns. But the latter—the power to carry a treaty into execution—imports the exercise of the internal powers of government, and was subject to all the limitations prescribed by the constitution to the exercise of those powers. In the very message by which President Jefferson communicated this treaty to Congress, after its ratifications had been exchanged, he said: 'You will observe that some important conditions *cannot be carried into execution* but with the aid of the legislature.' This is a circumstance common to many treaties, and has frequently given occasion to debates in the House of Representatives how far they are bound to sanction, in their legislative capacity, stipulations with foreign nations, solemnly made and ratified by the treaty-making power."

It is no longer controverted, it is admitted that the power of making treaties with foreign nations, and with Indian tribes, embraces within its meaning and extent of operation the acquirement, from those nations or tribes, of territory by cession, without reference directly to the object or purpose of acquiring it. It is not claimed as an incident to the treaty-making power, as necessary to the exercise of that power. It is part and parcel of the meaning and purpose of the power. The treaty-making power operates *directly* upon the subject matter—embraces it, includes it immediately; and does not draw it *incidentally* within its sphere. It is a great *primary* power of government, exercised (when necessary) in its intercourse with the governments of other nations; and has been confided, and properly confided, to the President, upon the conditions and qualifications prescribed in the constitution.

It will be perceived then, Mr. Chairman, (said Mr. D.) that in the maintenance of the positions which I have taken, I differ from such of my friends as contend that the acquisition of territory may be effected by the exercise of legislative power. It is not, I admit, contended by them that it is a direct and expressly granted power. No, sir, none maintain this. In looking through *all* the legislative power granted in the constitution, and vested in Congress, we are unable to discover this. The powers of Congress are *expressly* enumerated. This is not embraced in the enumeration. Is it necessary and proper to the execution of any granted power? There is not, in my deliberate opinion, a single granted power which may not be fully and completely executed, without drawing to itself inci-

dentally, or taking by implication, this adjunct power of procuring, by compact or agreement, foreign territory.

It is claimed by some of my friends as an incident to the power of *Congress* to admit new States into this Union. If the power to acquire foreign territory were incident to the admission of new States into the Union, it must be incident continually—always necessary to its execution. But this is not so; for the power to admit new States may be exercised without necessarily involving the preliminary or contemporaneous acquisition of foreign territory by Congress. The admission of new States into the Union implies application for admission, or certainly willingness and consent to be admitted. The expectation of such future event might well constitute a portion of the reason or policy for purchasing territory inhabited by a kindred people, with habits congenial with our own, and possessing, in common with us, a love of republican government. But to purchase territory, even with such hope and expectation, could scarcely with propriety be termed an *incident* to the power of admitting States. It is curious that a *future* expected event, extremely probable, it is admitted, and yet contingent, should be claimed as the incident or concomitant of the *present* exercise of a power. It is confounding the reason or inducement to do an act with the incidents essential to its performance.

But territory may be acquired, it is supposed, for other lawful and constitutional purposes, and having no inhabitants. We have seen that the treaty-making power is broad, general, and comprehensive, as to the acquisition of territory for every conceivable purpose admissible under our government. If, then, it embraces *all* purposes, and is universally conceded to belong to the executive, can it be, consistently with any fair principles of construction, attached incidentally to the legislative department for one *particular* purpose? Consistently with our doctrines of the division of powers and duties among different departments, and of the necessity of keeping them separate and distinct, so that neither exercise the powers properly belonging to another, how can we seize upon the expressly granted power of one department and transfer it by implication to another?

It seems to me, therefore, sir, that the true conclusion is that the power to *admit new States* is one power—a distinct and substantive power; the execution of which is confided to Congress; that the power of *acquiring territory*, for the United States, is a separate and distinct power, to be exercised by the President by and with the advice and consent of the Senate, in the usual mode of treaty stipulation, with a foreign power or an Indian tribe. The two operations are totally distinct, not only in the manner of performance, but in their effects and consequences. The admission of a State is the introduction of a separate, organized political community into the confederacy upon equal terms, and with the same rights, as the original parties to this Union. Not so with acquired territory; it is a *possession* of the United States, but not a member of this Union. And Congress has power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States. Territory is *purchased;* a State is *admitted—suffered to enter.*

With such views of the division of constitutional power among different departments, in common with many friends, I stand uncompromisingly opposed to all the propositions for the *territorial* annexation of Texas to the United States by act of Congress.

Before proceeding further, however, in disclosing my views, I will be pardoned for remarking to my friends who have so earnestly exerted themselves to prove that the acquirement of territorial possessions is incident to the power of admitting States, that, if the position were granted, it would not follow unavoidably that the incidental power was placed in the same hands with the principal power by the constitution. As a general rule, the *principal* carries the *incident* with it, to be performed by the same department. Congress has power to raise and support armies. This would seem necessarily to imply the appointment of officers; the appointment of officers is incident to raising an army; and the department charged with raising the army would naturally and necessarily have the power of officering it; but that the constitution has otherwise ordered and directed. And although the power of admitting new States is confided to Congress, yet the acquirement of territory for that very purpose, were it incidental, might well have been confided elsewhere by the constitution.

In reference to the republic of Texas, (said Mr. D.,) I candidly confess that I perceive much difficulty, perplexity, and delay in its *entire* territorial annexation to the United States, through the agency of the treaty-making power. In instances where the sovereign power cedes only a portion of its domain, the difficulties and embarrassments do not arise, which present themselves to my mind in this particular case. The argument which I have endeavored to submit heretofore, Mr. Chairman, concerning the acquisition or annexation of territory, (for annexation is but the acquisition of adjoining territory,) by treaty stipulation, has proceeded upon the hypothesis that the State or nation making the cession survived the operation, and continued to exist as a party. Should Texas *entire* be acquired or annexed, and governed as *territory* of the United States, the separate existence of an independent and responsible political community is destroyed. Texas will no longer exist as a State or republic to which application may be made for the payment of debts, and for the fulfilment of all contracts and engagements. The distinct existence of a responsible government is destroyed, and the *entire* country of Texas is reduced to the condition of a dependent Territory. If it be practicable, thus, by treaty-stipulation on the part of the existing government, to abolish the civil institutions of the country, and make it, by merger, the mere territory of the United States, subject to all needful rules and regulations respecting it, which Congress, in the exercise of a discretionary power, may make, would not, in that event, all the debts, liabilities, and contracts which Texas had created, devolve upon the United States? The obligations of the superseded government ought surely to devolve on the State or nation whose government and authority are substituted. This liability results from general principles of public law, from equity and justice to the creditors, and cannot be abrogated, impaired, or diminished without their consent. Any pretended stipulation, therefore, to charge the United States with a less certain sum than the whole amount due the creditors, would be unjust, iniquitous, and fraudulent—would be repudiation by contrivance.

It cannot and ought not to be disguised that in this mode of acquiring the whole territory and superseding the existing government, there are no in-

considerable obstacles and complicated difficulties, besides questions of doubtful constitutional power.

I will not press these matters longer on the committee, or detain them with recounting the unavoidable delay of opening fresh negotiations between our government and that of Texas, or the improbability of obtaining the ratification of any new treaty. I have adverted to these topics, that our minds might see and appreciate the difficulties and dangers, that we might, perhaps, prudently avoid encountering them unnecessarily, by resorting to some other mode less difficult, less liable to doubt, more expeditious, more practicable, and more efficacious in the accomplishment of our great and noble purpose of *uniting* Texas to the United States.

I come now to the inquiry, (said Mr. D.)—the important inquiry—can Texas be admitted as a new State into this Union? Does the republic of Texas, *being willing to enter*, present a case to which we may properly, and in sincere faith, apply that plain provision of the constitution of the United States to be found in article 4, section 3: "New States may be admitted by the Congress into this Union?" It was well remarked, in substance, by my worthy and respected colleague, [Mr. Bayly,] in the course of his observations, the other day, on this subject, that all the provisions and expressions of the constitution must be critically examined, in order to arrive at their true intent and meaning. Not only is it necessary to study the just import of the words used, but the grammatical construction of the sentences must be accurately understood.

Let us proceed to a critical analysis of the parts of the short paragraph quoted. Into what are *new* States to be admitted? "This Union." And what is "this Union"—how came it into existence? The question is answered by article 7 of the constitution: "The ratification of the conventions of nine States shall be sufficient for the establishment of this constitution between the States so ratifying the same." "This Union" was therefore formed originally by the establishment of this constitution between thirteen independent States. Into this Union, *new* States may be admitted. So far, it is a general, unrestricted provision for the admission of new States; and nothing yet appears to confine Congress, in the exercise of this power, to the acknowledged limits of the United States as they existed at the formation and adoption of the constitution. It must be admitted—it does not allow controversy—that, if the paragraph stopped entirely at the end of the quotation, Congress might, *ad libitum*, admit new States without reference to the fact whether formed within or without the limits defined by treaty. The wisdom, discretion, and patriotism of Congress would be their guides in executing a trust given to them without terms of limitation.

Is there to be found, then, in the residue of the sentence, of which the first paragraph has been quoted, any expression to restrain or limit the power? It is in these words: "but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislature of the States concerned as well as of the Congress." It will be perceived that the residue of the sentence is disjunctively connected with the first part, by the conjunction "but." It is readily granted that it means not only something more on the same subject of admitting new States; it intends also that what follows this prefix, stands in opposition to what goes before it. It should, therefore, be fairly interpreted; and the full extent of its opposition to the first part allowed. All the qualification and all the restraint should be readily conceded which is thereby imposed on a power and authority otherwise unrestrained and unqualified. What, then, is the qualification or restraint imposed? It is evidently designed to protect the rights and jurisdiction of the existing States of the Union at all times. An existing member of the Union is preserved from division and from loss of territory and jurisdiction by the formation of a new State within the same. Nor can existing members be merged or swallowed up by consolidating two or more, or parts of them, into a single State. Except, then, in reference to attempts or applications to make new States out of States already in the Union, the latter part of the sentence leaves, undiminished, the discretionary power. The conclusion from the whole examination of the sentence is, that the consent of Congress *alone* is sufficient for the admission of new States, except the new State is proposed to be formed or erected within the jurisdiction of some other State, or to be formed by the junction of two or more States, or parts of States; then the Congress may not consent to admit the new State without the consent of the legislature of the States concerned.

It is fair, Mr. Chairman, to refer to contemporaneous history for an elucidation of the provisions of the constitution, and to derive strength in support of our interpretation, from a knowledge of the circumstances and difficulties which had embarrassed the confederacy, and for which it was purposed to provide a remedy. Not only was the confederacy perplexed with the case of Vermont, which Mr. Madison called a "thorny question," and whose inhabitants he styled "enterprising adventurers," but other efforts had been made to form new States, and gain admission into the confederacy. It was apprehended that the western inhabitants would rise up and form new States, endeavor to treat, and offer to form alliances with our enemies, and play the part of Vermont on a larger scale.

The western part of Pennsylvania—that region of which this arch State, as she has been termed here on a former occasion, somehow contrived to deprive Virginia, (although the latter had the better title,)—had risen up and asked to be admitted as a State. The district of Kentucky, then within the jurisdiction of Virginia, had applied for admission. The western part of North Carolina, since formed into Tennessee, had organized itself into a State called "Frankland," and had asked to be admitted also. The latter part of the clause, qualifying the first part in relation to the admission of new States, was suggested to the framers of the constitution by the difficulties to which I have briefly referred, which had, in the midst of war, endangered the peace and harmony of the States. But the general and discretionary power of admission was intended to supply a defect on this subject, and to meet *all* cases of application, certainly all cases adjacent and contiguous. The framers of the constitution, and the original States which formed "this Union," contemplated its enlargement, and made provision therefor. It is a historical fact that provision was made during the first union, by Congress, for the admission of Canada and other colonies; and that the provision in the constitution is designed to supply a defect in this particular, and to *enlarge* and *disencumber* the power of admission. I respectfully ask the attention of the committee to the following commentary on this

clause of the constitution, found in the 43d number of the Federalist, and written by James Madison, who had largely participated in the formation of that instrument:

"In the articles of confederation, no provision is found on this important subject. Canada was to be admitted of right, on her joining in the measures of the United States; and the other COLONIES, by which were evidently meant the other British colonies, at the discretion of nine States. The eventual establishment of NEW STATES seems to have been overlooked by the compilers of that instrument. We have seen the inconvenience of this omission, and the assumption of power into which Congress have been led by it. With great propriety, therefore, has the new system supplied the defect. The general precaution that no new States shall be formed, without the concurrence of the federal authority, and that of the States concerned, is consonant to the principles which ought to govern such transactions. The particular precaution against the erection of new States, by the partition of a State without its consent, quiets the jealousy of the larger States; as that of the smaller is quieted by a like precaution, against a junction of States without their consent."

We have shown that from the plain letter of the constitution, and a fair interpretation of its meaning, the constitutional power exists to admit a foreign State into this Union—that contemporaneous history explains and fortifies this construction—that the commentary of the Federalist leaves no doubt of the meaning and purpose of the provision. And this part of the subject I may be allowed appropriately to close by the introduction of the following extract of a letter from that able, virtuous, and distinguished statesman, Martin Van Buren, to a gentleman on this floor from Mississippi, [Mr. HAMMETT:]

"The matter, therefore, stands as it would do if the constitution said, 'new States may be admitted by the Congress into this Union,' without addition or restriction. That these words, taken by themselves, are broad enough to authorize the admission of the territory of Texas, cannot, I think, be well doubted; nor do I perceive upon what principle we can set up limitations to a power so unqualifiedly recognised by the constitution in the plain simple words I have quoted, and with which no other provision of that instrument conflicts in the slightest degree.

"The practicability, as well as expediency, of making Canada a member of Union, did certainly, to some extent at least, occupy the minds of our public men, as well before the close of the revolution as between that event and the formation of the new constitution. This is, however, only a link in the chain of evidence to make probable what subsequent events make certain, that the framers of the constitution had their eyes upon this very question, when this section was finally settled. That part of the constitution, as appears by the journal of the proceedings of the convention, was presented in a variety of forms before it assumed the shape in which it was finally adopted.

"These proceedings show that the proposition to restrict the power to admit new States to the territory within the original limits of the United States, was distinctly before the convention, once adopted by it, and finally rejected in favor of a clause making the power in this respect general. Whatever differences of opinion may exist as to the propriety of referring to extraneous matter to influence the construction of the constitution where its language is explicit, there can certainly be no objections to a resort to such aids to test the correctness of inferences, having no other basis than supposed improbabilities. I have not, therefore, been able to bring my mind to any other satisfactory conclusion than that it was the intention of the convention to give the power of admitting new States to Congress, with no other limitations than those which are specified in that instrument.

"The language employed, the specification of certain restrictions, the adoption and subsequent exclusion of that which is now referred to, together with the subsequent and continued action of the new government, all seem to combine to render this interpretation of the constitution the true one."

New States are to be admitted into this union of States "by the Congress." Instead of confiding the admission of new States to the Congress, it might have been reserved to the States, and referred to the assent of the legislatures. If, in general and unlimited terms, it had been agreed that new States might join the confederacy upon the assent of the several legislatures, would any one doubt that, under such a provision, the republic of Texas might join the confederacy as a new State, with the assent of the legislatures? This unquestionable power of the States to admit, without limit or restraint, new States—foreign States—into their union, did originally exist, although the compilers of the articles of confederation overlooked the necessity of inserting a provision therein for that purpose. In forming this Union, the States, knowing their right to admit any new State they pleased, and desirous of providing for the exercise of that right on all suitable occasions, without too great inconvenience and delay, have agreed to confide or intrust this right to "the Congress," in as ample manner as they originally possessed it. This provision is a pact or agreement among the States to admit new States; and its execution is confided to Congress.

Mr. Chairman, the fact is, that in the history of the formation and progress of this Union, foreign States have been joined to it. Gentlemen are mistaken in assuming so boldly and confidently that no State could be regarded as foreign to the United States lying within the limits acknowledged by Great Britain to be independent. The last clause in the constitution evidently looked to such a possible condition of things. It provides for the existence of the Union as soon as ratifications should be made by nine States. It had not escaped the sagacious and reflecting framers of the constitution to inquire what would be the condition of such States as might dissent, and refuse to ratify. I beg leave again to refer to the 43d number of the Federalist. It is there clearly shown that the confederacy was to be superseded; and it is more than intimated that it was then at an end. Sir, a common sense of danger and a common love of freedom united the revolted colonies during their revolutionary struggle, more strongly and more closely than did their articles of confederation. But I will not detain the committee from the interesting views of Mr. Madison:

"This article speaks for itself. The express authority of the people alone, could give due validity to the constitution. To have required the unanimous ratification of the thirteen States would have subjected the essential interests of the whole to the caprice or corruption of a single member. It would have marked a want of foresight in the convention, which our own experience would have rendered inexcusable.

"Two questions of a very delicate nature present themselves on this occasion. 1. On what principle the confederation, which stands in the solemn form of a compact among the States, can be superseded without the unanimous consent of the parties to it? 2. What relation is to subsist between the nine or more States ratifying the constitution, and the remaining few who do not become parties to it?

"The first question is answered at once by recurring to the absolute necessity of the case; to the great principle of self-preservation; to the transcendent law of nature and of nature's God, which declares that the safety and happiness of society are the objects at which all political institutions aim, and to which all such institutions must be sacrificed. PERHAPS, also an answer may be found without searching beyond the principles of the compact itself. It has been heretofore noted among the defects of the confederation, that in many of the States, it had received no higher sanction than a mere legislative ratification. The principle of reciprocity seems to require that its obligation on the other States should be reduced to the same standard. A compact between independent sovereigns, founded on acts of legislative authority, can pretend to no higher validity than a league or treaty between the parties.

"It is an established doctrine on the subject of treaties, that all the articles are mutually conditions of each other; that a breach of any one article is a breach of the whole treaty; and that a breach committed by either of the parties,

absolves the others; and authorizes them, if they please, to pronounce the compact violated and void. Should it unhappily be necessary to appeal to these delicate truths, for a justification for dispensing with the consent of particular States to a dissolution of the federal pact, will not the complaining parties find it a difficult task to answer the MULTIPLIED and IMPORTANT infractions with which they may be confronted? The time has been when it was incumbent on us all to veil the ideas which this paragraph exhibits.

"The scene is now changed, and with it, the parts which the same motives dictate.

"The second question is not less delicate; and the flattering prospect of its being merely hypothetical, forbids an over-curious discussion of it. It is one of those cases which must be left to provide for itself.

"In general it may be observed, that although no political relation can subsist between the assenting and dissenting States, yet the moral relations will remain uncancelled. The claims of justice, both on one side and on the other, will be in force, and must be fulfilled; the rights of humanity must in all cases be duly and mutually respected; whilst considerations of a common interest, and above all, the remembrance of the endearing scenes which are past, and the anticipation of a speedy triumph over the obstacles to reunion, will, it is hoped, not urge in vain MODERATION on one side, and PRUDENCE on the other."

Sir, the position laid down by Mr. Madison is too obvious to require comment. Each State was separately free, independent, and sovereign, and every one must have been, in respect to every other, foreign, but for the constitutional union between them. Every State not in the Union is foreign, and must be so regarded upon the principles of international law. It did so happen that eleven States in the first instance *united* by ratifying the constitution, and organizing the federal government. Two States—North Carolina and Rhode Island—did not ratify. They did not participate in the election of General Washington, or in organizing the government. They were not members of this Union in 1789, when the government went into operation; they were to all interests and purposes foreign States, and so regarded in the legislation of Congress, for the laws of the United States did not extend over them. They were not subject to the revenue laws, or included in the census, or enumeration of the inhabitants of the United States.

It was expressly stipulated that the same duties should be imposed on goods coming through them into the United States as upon direct importations. Their own productions, too, were subjected to the payment of duties. The rum and the chocolate of North Carolina had to pay duty, if imported only into the adjoining State.

[Mr. D. here referred to the laws of the United States to sustain his positions in relation to Rhode Island and North Carolina; to wit: Laws U. S. vol. 2d, 31, 52, 79, 107, 108, 110, 112; also, vol. 2d, 79 and 81.]

Fortunately, these two foreign States did not long so remain, for they became members of this Union by *ratifying* the constitution in accordance with the original purpose and hope of the framers—that all the original States would be so united. North Carolina ratified on the 21st November, 1789, and Rhode Island on the 29th May, 1790.

And now, Mr. Chairman, (said Mr. D.,) having shown that *two* foreign States became members of this Union by *ratification*, I shall proceed to show that *one* foreign State was *admitted* into this Union by the Congress. Vermont never became a member of the confederacy during the revolutionary struggle; she was not a revolted colony, and yet was an independent State from 1777, when she organized her government. Time will not permit, sir, to trace these "enterprising adventurers," with their New Hampshire grants, from their earliest settlements in the Green mountains, to the time of their admission into this Union. I shall not investigate the validity of their titles to their lands, but may say, that the brave adventurers into Texas, who have acquired lands, and founded government, and achieved independence, need not blush at a comparison. These "enterprising adventurers" maintained themselves in defiance of New Hampshire and New York, and against the decision of the British crown. I shall not scrutinize the part they played during the war of the revolution. I admire their bold, daring spirit, and the resolute valor with which they maintained their possessions. To those who are curious to learn their history, I must be content to refer them to Slade's Vermont State Papers, to Sparks's Life of Ethan Allen, to the proceedings of Congress during the confederation relative to Vermont, to the Madison Papers, containing his letters during the confederacy, particularly vol. i. pp. 121, 122, 123, and to vol. ii., pp. 624 and 626. Vermont continued to maintain her foreign attitude towards the United States after the adoption of the constitution, and to preserve her freedom against the claims of New York. Finally, that peace might be restored, the New York legislature, on the 14th July, 1789, appointed commissioners to adjust the difficulties with Vermont. Reference to the act of the commissioners at New York on 7th October, 1789, will show that peace was restored, and that New York, forbearing all further claim of jurisdiction, acknowledged the independence of Vermont. That this transaction may be well understood, and the principles of public and national law involved duly comprehended, I will ask the indulgence of the committee to hear me read some passages from the commentaries of Chancellor Kent. (Vol. i. pp. 178–9.)

"The release of a territory from the dominion and sovereignty of the country, if that cession be the result of coercion or conquest, does not impose any obligation upon the government to indemnify those who may suffer a loss of property by the cession. The annals of New York furnish a strong illustration of this position. The territory composing the State of Vermont belonged to this State; and it separated from it, and erected itself into an independent State, without the consent and against the will of the government of New York. The latter continued, for many years, to object to the separation, and to discover the strongest disposition to reclaim by force the allegiance of the inhabitants of that State. But they were unable to do it; and it was a case of a revolution effected by force, analogous to that which was then in action between this country and Great Britain. And when New York found itself under the necessity of acknowledging the independence of Vermont, a question arose before the legislature, whether they were bound in duty to make compensation to individual citizens whose property would be sacrificed by the event, because their titles to land lying within the jurisdiction of Vermont, and derived from New York, would be disregarded by the government of that State. The claimants were heard at the bar of the house of assembly, by counsel, in 1787, and it was contended, on their behalf, that the State was bound, upon the principles of the social compact, to protect and defend the rights and property of all its members; and that, whenever it became necessary, upon the grounds of public expediency and policy, to withdraw the protection of government from the property of any of its citizens, without actually making the utmost efforts to reclaim the jurisdiction of the country, the State was bound to make compensation for the loss. In answer to this argument, it was stated that the independence of Vermont was an act of force beyond the power of this State to control, and equivalent to a conquest of that territory: and the State had not the competent ability to recover, by force of arms, their sovereignty over it; and it would have been folly and ruin to have attempted it. All pacific means had been tried without success; and, as the State was compelled to yield to a case of necessity, it had discharged its duty; and it was not required, upon any of the doctrines of public law, or principles of political or moral obligation, to indemnify the sufferers. The cases in which compensation had been made for losses consequent upon revolutions in government were

peculiar and gratuitous, and rested entirely on benevolence, and were given from motives of policy, or as a reward for extraordinary acts of loyalty and exertion. No government can be supposed to be able, consistently with the welfare of the whole community, and it is, therefore, not required, to assume the burden of losses produced by conquest, or the violent dismemberment of the States. It would be incompatible with the fundamental principles of the social compact.

"This was the doctrine that prevailed; and, when the act of July 14, 1789, was passed, authorizing commissioners to declare the consent of the State to the independence of Vermont, it was expressly declared that the act was not to be construed to give any person claiming lands in Vermont, under title from this State, any right to any compensation whatsoever from New York."

Will any man now doubt that, on the 7th October, 1789, Vermont was free from claim of jurisdiction by any power on earth, and might have negotiated treaties and formed alliances? The legislature of Vermont, on the 27th October, 1790, passed an act providing for a convention in reference to her admission into the Union; and that convention, on the 10th of January, 1791, adopted and ratified the constitution on behalf of Vermont. But she did not, by that ratification, become a member of this Union as did the original States; but she was *admitted* into this Union by the Congress. An act passed on the 18th of February, 1791, admitting the State of Vermont into this Union on the 4th March, 1791.—See laws U. S., vol. 2, p. 193, and pp. 201, 202.

As the act is short, and affords the first precedent for the admission of a foreign State, it is inserted entire:

"Chap. 81. [VII.] An act for the admission of the State of Vermont into this Union.

"The State of Vermont having petitioned the Congress to be admitted a member of the United States, *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared*, That on the fourth day of March, one thousand seven hundred and ninety-one, the said State, by the name and style of 'the State of Vermont,' shall be received and admitted into this Union as a new and entire member of the United States of America.

"Approved, Feb. 18, 1791."

The inquiry, then, can Texas be admitted as a new State into this Union? is answered in the affirmative, at least to the satisfaction of my own mind.

But, Mr. Chairman, whilst the constitutional power to admit Texas into this Union as a new State has been demonstrated, we shall not be able to vindicate the exercise of that power, unless it is manifest that Texas may rightfully, on her part, apply, or enter. Past occurrences preclude all doubt from my mind of her willingness, her desire to enter this Union, and therefore the argument should be the same as if she was actually making, at this moment, application for admission. Indeed her original application and preference was to become a *member* of this Union, and not a Territory of the United States. Such, it is reasonable to presume, is still her wish—such, surely, ought to be her preference.

If Texas was, at this time, a territory, a dependency, or department of some foreign power at peace with us; under such circumstances, to give the sanction of the United States to its erection into a State, and to admit it into this Union, would most unquestionably violate a nation's rights. Such act, on our part, would be a flagrant wrong inflicted on a friendly power; it would amount to a territorial despoliation; it would be a justification, in the judgment of the civilized world, of that friendly power in making war. If such was the condition of Texas, it will be readily conceded that it ought to be fairly and honorably acquired of such foreign power through the intervention of the treaty-making function. Louisiana and Florida are instances of such acquisitions. Texas, however, is at this time a free and independent State, and of *right* ought to be so. She has so solemnly published and declared, as did the United States; and this condition of *rightful* independence she has maintained, in no doubtful manner, for years. In her character of freedom and independence, acknowledged and respected by foreign powers, she has, with them, national intercourse, and with them has negotiated treaties. It is now not material to inquire whether she attained the character and condition of an independent State, by successful revolt, as did the United States; by conquest, as did Vermont; by the peaceable or violent dissolution or destruction of a confederacy, or by whatsoever mode. The *fact* of her independence, at present, and of its uninterrupted continuance for quite a considerable lapse of time, are notorious to the civilized world, and unquestioned. She is in the full enjoyment of freedom, and in the active and undisturbed exercise of the attributes of sovereignty. Her existing relative position to the nations of the earth is apparently, and in all probability permanently, established. Looking to the political aspect of affairs, there can be no well-grounded apprehension of further attempt at invasion and subjugation. She is engaged no longer in war and doubtful contest for the maintenance of her independence. War has actually *ceased*, whereby peace is *restored;* without, however, any formal pacification. There is no threatened or apprehended approach of invading armies to disturb this actual state of peace. There is no war, actual, constructive, or probable. There is *now* no pretended armistice, upon which to hang the plea of a temporary suspension only of existing hostilities. Vested by the form of our government with the discretionary power of admitting Texas as a new State into this Union, the Congress is under no international obligation to postpone indefinitely the exercise of that power, in order to ascertain if war will be renewed by Mexico against Texas, and further effort made, in earnest, forcibly to conquer and retain her as a department.

Does the admission of Texas, upon a just consideration of all the circumstances, give cause of offence, properly, to any other power? What effect the union of Texas with these States may have, in the progress of time, upon the course of trade, commerce, and business of other nations must be matter of conjecture and speculation. Probable estimates of a favorable or disadvantageous influence upon commercial interests can never rightfully become questions of discussion and complaint, so as to require two powers, purposing to unite, to forbear or relinquish the consummation of their intentions. A weak State, with a small comparative population, embarrassed with debt, contracted in defence of liberty, and less able, on that account, to render justice to her creditors, and develop her resources for the improvement and defence of the country, may rightfully, in reference to other nations, seek increased security and protection, by an intimate union with a stronger power; may obtain admission into a great and powerful confederacy of States. In the simple act of admission into our Union, Texas exercises a privilege, a right recognised to belong to her, according to the well-established principles of international law. Ay, sir, it is the *duty* of a good government to seek, by all lawful and justifiable means, to promote the safety and prosperity of the country, whose destinies are under its control.

Upon the same principles of the public law of nations, it becomes both the right and duty of the United States, the stronger power, to give succor to the weaker, if it may be done without injury to themselves, or a violation of internal obligations. Admission of Texas into our Union, then, viewed externally and internationally, is a blameless transaction. The mode of its accomplishment by the two countries, the respective powers of the governments, and the appropriate functions of different departments, cannot legitimately be matters of discussion with other nations.

The arrangements devolve on Congress, vested with the discretion to admit, and on Texas, which, as a new State, is to enter. I prefer, sir, that the mode should be simple, certain, and as early as practicable. Believing that the proposition which I had the honor to submit, to be perfected as I have indicated, is more in accordance with these requisites, I should of course desire its adoption. My plan proposes to admit a new State with definite boundaries, adjoining two other States, and bordering on the Gulf of Mexico. It is apparent that a State may be thus defined so as to embrace all or a large majority of the population of the present republic. By requiring the new State to border on existing States, we avoid the possibility of a gap in the extension of our confederacy; we preserve the idea of forming contiguous States *in our neighborhood*. And by requiring the new State to bind on the Gulf, we secure the extension of our coast, at once, west of the Sabine. The inhabitants of the republic are to institute for themselves a republican form of government; are to consent to define their boundaries, and voluntarily adopt the other conditions upon which the consent of Congress to their admission is based. And all these proceedings are to be had with the consent of the existing government. Here is a full recognition of the popular right of self-government; for without the acknowledgment of this right by us to be exercised by them, no republican government could be in fact instituted.* And yet to avoid every appearance of disrespect to the existing government, and every semblance of a precedent to invite the inhabitants of a country to rise up against the consent of their government, and form a State in order to be admitted into this Union, with great propriety the consent of the existing government is required. The right of the people to define the limits of their organized government, or to contract its organic form, for the convenience of themselves and its administration, to a space or area less than their whole territory, cannot be questioned. There is no authority or power competent to question it. And for similar and good reasons it is indisputable that the right to the residuary territory remains unaffected by the operation. This being so, is it not, in many respects, to be preferred that the boundaries of the new State should at once, by the fundamental law, be definitively settled. It will be far more practicable to adjust and settle questions relating to this Territory and its boundaries, whether we look to difficulties at home or abroad, in its condition of mere territory, than if embraced in the actual limits of the State. Nobody entertains the most remote idea that Texas, if admitted as one entire State, ought so to remain after it shall have been filled with inhabitants. There will be infinitely more difficulty in dissecting a State, or erecting new States within its limits, than there would be in forming new States out of territory as the number of inhabitants should from time to time justify.

Would the circumstance that the new State had claim to large territorial possessions beyond its organized limits, constitute an objection to its admission? Certainly not, Mr. Chairman; for if so, then this Union would hardly have been formed. A new State is admitted upon the same footing, and with equal rights, with the original States who formed this Union; and, consequently, with the same right to hold territory and retain title thereto, possessed and owned at the time. Most of the original States had claims to territory. Some ceded to the United States under the articles of confederation—others became members of this Union without having made such cessions. It was not regarded as any obstacle in the way of membership. It was competent for these States separately to acquire and hold territory before they became united. They did not forfeit or lose their territorial claims by becoming members. Without referring to others, I have examined, for the sake of precedents, the cases of North Carolina and Georgia. Both held extensive and valuable territories, and continued to hold them for some time. By reference to Laws of the United States, vol. 2, beginning at page 85, may be found "An act to accept a cession of the claims of the State of North Carolina to a certain district of western territory," approved April 2, 1790; which act recites all the terms and conditions upon which the cession was made, as contained in the act of the general assembly of the State of North Carolina.

The North Carolina cession was made in Congress by her two senators, Samuel Johnson, and Benjamin Hawkins, by deed signed, sealed, and delivered.

*In this mode of admission too, we avoid the objection made by Mr. Adams and others at the time, that we ought not to take possession of Louisiana, and extend the laws of the United States over its inhabitants without their formal consent—a precedent which he deprecated, and the evil effects of which he thought would be fully developed in our future acquisitions of territory, and admissions of States. He refers to this precedent in the same letter from which an extract is embodied in these remarks. See the following:

"It was not in the exercise, by General Jackson, in 1821, of powers so incompatible with all our institutions; it was in the assumption and grant by Congress of those powers in 1803 that the real constitutional question was involved: and it is no small satisfaction to me that I am enabled to refer you to those very votes which 'General Smyth' imputes to unworthy motives for proof that, from the first day that I was called to act in your public councils, I have held the government of your Union to be a government of limited powers; that Congress could not lawfully exercise any powers not granted to them by the people in the constitution, and that powers in themselves of a transcendental nature cannot be assumed by CONSTRUCTION as incidental to expressed powers of apparent import so much more limited than themselves."

* * * * *

"After those questions had been settled by large majorities of both Houses of Congress, and sanctioned by the acquiescence of the people both of Louisiana and of the United States, I have considered them as no longer controvertible. But the consequences of the principles then settled, and by those very acts against which I voted, have been as yet but very imperfectly developed. When the day shall come for your representatives to determine whether the territories of Ceylon or Madagascar, of Corsica or of Cuba, shall be governed by rules and regulations emanating from your Congress; whether the inhabitants of those TERRITORIES shall be governed for a discretionary time by such persons, and in such manner as the President of the United States shall direct; and whether their PEOPLE shall ultimately be constituted into States, represented upon the floor of your national legislative assemblies;—then will be the time for discovering, in distant perspective, the full import and final consequences of that second section of the act for taking possession of Louisiana."

In vol. 1, Laws U. S., beginning at page 488, may be found "articles of agreement and cession between the United States and the State of Georgia." These articles were concluded on 24th April, 1802, between commissioners of the State of Georgia, to wit: James Jackson, Abraham Baldwin, and John Milledge, duly authorized and appointed by and on the part and behalf of the said State of Georgia; and the commissioners of the United States, James Madison, Albert Gallatin, and Levi Lincoln, duly authorized and appointed, &c. Georgia ceded her right, title, and claim to jurisdiction and soil of lands west of Chattahooche and of a certain line. The United States also ceded to Georgia whatever claim, right, or title they had to the jurisdiction and soil of certain lands. The articles contain diverse stipulated conditions favorable to Georgia. These articles were fully ratified by the legislature of Georgia on June 16, 1802. The act of Congress authorizing the appointment of these commissioners was approved April 7, 1798, and is entitled "an act for the amicable settlement of the limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi territory." It appropriated ten thousand dollars to enable the President to carry it into effect.

It is perfectly competent for Texas—I mean the political community who own and inhabit the country in their high sovereign capacity—to prescribe the limits of the State formed within their territory and jurisdiction, and still retain their right, title, and claim to the residuary territory unimpaired. If afterwards it is deemed expedient for the new State to cede her right, title, and claim to the United States, in order that a government may be established therein, as in the case of Mississippi, such cession may easily be accomplished with as little difficulty as in the cases cited—and probably with less difficulty and ultimate aggregate cost than in the case of Georgia. Candor requires me to declare that I should look with an anxious wish to a speedy cession to the United States, and to the payment of a just equivalent to the new State. In my unbiased judgment this is the most simple, the most certainly constitutional, and the most expeditious mode of bringing the whole country properly appertaining to Texas within the territorial limits and jurisdiction of the United States. In this mode, which I have ventured to propose, we shall have without delay one State, stretching on the Gulf and compactly joining Louisiana and Arkansas, with its boundaries, in other particulars, so defined in the constitution as to prevent, for the future, any controversy respecting the same. The new State, too, assents, in advance, to any settlement of the boundaries of this residuary territory which the government of the United States may make. This assent on the part of the new State leaves, as it should, the treaty-making power full scope to adjust the international boundary by *liberal* and amicable negotiation.

If Texas is to be admitted into this Union, as a State, as I sincerely trust and desire will be the result, surely it is the best policy to accomplish this great purpose at the earliest practicable time. A few months will be amply sufficient for the people of Texas, if so inclined, to accept the easy and favorable conditions tendered, and through the agency of deputies in convention adopt a republican form of government, to which they are already accustomed; and thus at once enter the Union. The plan proposed by me, in view of these considerations, admits Texas definitely on a named day; and in thus providing, Mr. Chairman, I have consulted the earlier, safer, and better precedents. In the case of Vermont, to which I have already referred for another purpose, it will be remarked that the act was approved on February 18, 1791, admitting Vermont by the name and style of "the State of Vermont" as a new and entire member of the United States of America, on the fourth day of March, one thousand seven hundred and ninety-one.

An act was approved on the 4th February, 1791, entitled—

"An act declaring the consent of Congress that a new State be formed within the jurisdiction of the Commonwealth of Virginia, and admitted into this Union, by the name of the State of Kentucky."

This act admits Kentucky on the 1st day of June, 1792. As the act is short, and as it and the Vermont act form the precedents which I have pursued, it shall be inserted entire. See Laws U. S., vol. 2, page 191:

"Whereas the legislature of the Commonwealth of Virginia, by an act, entitled 'An act concerning the erection of the district of Kentucky into an independent State,' passed the eighteenth day of December, one thousand seven hundred and eighty-nine, have consented that the district of Kentucky, within the jurisdiction of the said Commonwealth, and according to its actual boundaries at the time of passing the act aforesaid, should be formed into a new State: and whereas a convention of delegates, chosen by the people of the said district of Kentucky, have petitioned Congress to consent that, on the first day of June, one thousand seven hundred and ninety-two, the said district should be formed into a new State, and received into the Union, by the name of 'the State of Kentucky:'

"Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared.* That the Congress doth consent that the said district of Kentucky, within the jurisdiction of the Commonwealth of Virginia, and according to its actual boundaries on the eighteenth day of December, one thousand seven hundred and eighty-nine, shall, upon the first day of June, one thousand seven hundred and ninety-two, be formed into a new State, separate from, and independent of, the said Commonwealth of Virginia.

"Sec. 2. *And be it further enacted,* That, upon the aforesaid first day of June, one thousand seven hundred and ninety-two, the said new State, by the name and style of the State of Kentucky, shall be received and admitted into this Union as a new and entire member of the United States of America" [Approved, Feb. 4, 1791.

It will thus be perceived that my plan strictly pursues the two first precedents for the admission of new States; and it ought, moreover, to be remembered that they occurred during the first Congress under the present constitution, and are the first instances of the exercise of the power.

By some, however, it is deemed proper, nay, necessary, that the new State should present itself to the next Congress, subject its constitution to critical inspection, and await a final decision on the question of admission.

This idea originates in an erroneous conception of that provision in the constitution which secures to each State a guarantee of its republican form of government. If the mere Congress had to guaranty to each State its republican form of government, still it would confer on that body no rightful authority to supervise or superintend its formation. The very idea that the exercise of this great inherent right of the people may be constrained, is inconsistent with its existence. The formation of a republican government is impracticable if submitted to the control, abridgment, or dictation of some other authority than that of the people providing for their own self-government. The requisition on the part of Congress to have the constitution submitted for inspec-

tion, implies the right to reject, alter, modify, or dictate provisions. It springs from a spirit of encroachment, and is an infringement on popular sovereignty. The guarantee extends or applies to something in existence. The republican form of government first comes into existence from the creating hand of the people, and then there is that to which a guarantee may apply. And the same creating power may change, alter, or abolish, and substitute another republican form in its stead, and still the guarantee applies without submitting the new form to the criticism of Congress Besides, then, the spirit of encroachment upon the right of self-government, which is apparent, there are superadded to it both folly and absurdity. For, if any obnoxious provision should be omitted, to avoid the censure of Congress and secure a vote of admission, soon thereafter the people of the State might, by amendment, introduce it into the constitution without fear of consequences from Congress. That body could neither issue nor enforce a mandamus to bring up the new constitution for examination. Nor could Congress expunge the hateful provision, nor expel the offending State. What a farce, then, for *Congress* to be inspecting a State constitution? How idle and unnecessary to postpone admission, then, from one session to another, merely to look at the constitution.

Many who have supposed it necessary to have the constitution inspected, and innocently believed that Congress could decide whether or not it was republican, have hastily, and without adverting to the precise language of the constitution, supposed it was enjoined on the *Congress* to guaranty to each State a republican form of government. After correcting this error by an exact quotation of the clause in question, I will dismiss this particular topic by the addition of some observations from my two great masters in constitutional construction, James Madison, and John Taylor, of Caroline.

"ART. 4. SEC. 4. The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion."

A quotation from "New Views of the Constitution," by John Taylor, of Caroline, will be first introduced, beginning at page 226.

"The guarantee of a republican form of government by all the States to each State, has also been supposed to confer some indistinct and unlimited national supremacy upon the federal government: but this guarantee itself affords arguments subversive of the inference. It expresses a particular duty, and cannot, therefore, convey powers, especially such as would defeat the end it expresses. It was intended to secure the independence of each State, and not to subject each to a majority of all. Like a mutual territorial guarantee between several kingdoms, it imposes an obligation, does not invest the parties to the guarantee with a power of diminishing the territory, or other rights of one kingdom. The word republican includes a right in the people of each State to form their own government; and reserves whatever other rights may be necessary to the exercise of this cardinal right. The right of the people in each State to create, and to influence their government, is the essential principle of a republican form of government, and, therefore, the guarantee could not have been intended as a means for destroying the essence of a republican form of government, by subjecting the people of every State to the arbitrary will of a federal majority, or to a majority of the Supreme Court. The word republican includes both the rights of the States and those of the people. The States united to preserve their republican equality among themselves, and also the individual republican rights of the people.

"Can it be a question what these are, when it is considered that the people of each State created a government; that conventions of each State ratified the constitution framed by a convention of States; and that this constitution can only be amended by States? These acts define the meaning of the word republican, in respect both to the people and the States; but all these definitions would be defeated, if the guarantee can be made to invest the federal government, or the federal court, with a supremacy over these State and popular rights, necessary to create and maintain a republican form of government. Self-government is its end; and this can only be effected by a complete capacity in the people, through the instrumentality of election, both to form and to influence a government; but a supremacy over this capacity destroys that without which the species of republican government intended by the constitution cannot exist. How can the States, or the people of the States, be said to possess the right of self-government, if either the forms of State governments, or the reserved local powers, are subjected to a supremacy constituting no portion of the people of the States, nor exposed to their control? When the right of self-government is superseded, no republican rights will remain; because all proceed from it, and the guarantee would have no republican form of government to secure."

The following quotation from the Federalist is part of the 43d number, heretofore referred to:

"In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be, the greater interest have the members in the political institutions of each other; and the greater right to insist that the forms of government under which the compact was entered into, should be *substantially* maintained.

"But a right implies a remedy; and where else could the remedy be deposited, than where it is deposited by the constitution? Governments of dissimilar principles and forms have been found less adapted to a federal coalition of any sort than those of a kindred nature. 'As the confederate republic of Germany,' says Montesquieu, 'consists of free cities and petty States, subject to different princes, experience shows us that it is more imperfect than that of Holland and Switzerland.'

"'Greece was undone,' he adds, 'as soon as the king of Macedon obtained a seat among the Amphyctions.' In the latter case, no doubt, the disproportionate force, as well as the monarchical form of the new confederate, had its share of influence on the events.

"It may possibly be asked what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the general government should not be needed, the provision for such an event will be a harmless superfluity only in the constitution.

"But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues and influence of foreign powers? To the second question it may be answered, that if the general government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no farther than to a *guarantee* of a republican form of government, which supposes a *pre-existing* government of the form which is to be guarantied. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the federal constitution. Whenever the States may choose to substitute *other* republican forms, they have a right to do so, and to claim the federal guarantee for the latter. The only restriction imposed on them is, that they shall not exchange republican for anti-republican constitutions; a restriction which, it is presumed, will hardly be considered as a grievance."

And as I prefer the earlier and safer precedents, it may be observed that, in the two cases of Vermont and Kentucky, there was no preliminary or conditional act of Congress requiring the production of their constitutions. To which may be added the precedent in the case of Tennessee; and as that act is also short, it will be introduced entire.

"Chap. 341. [XLVII.] An act for the admission of the State of Tennessee into the Union.

"Whereas, by the acceptance of the deed of cession of the State of North Carolina, Congress are bound to lay out, into one or more States, the territory thereby ceded to the United States:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the whole of the territory ceded to the United States by the State of North Carolina shall be one State,

and the same is hereby declared to be one of the United States of America, on an equal footing with the original States, in all respects whatever, by the name and title of the State of Tennessee; that, until the next general census, the said State of Tennessee shall be entitled to one representative in the House of Representatives of the United States; and, in all other respects, as far as they may be applicable, the laws of the United States shall extend to, and have force in, the State of Tennessee, in the same manner as if that State had originally been one of the United States."

[Approved, June 1, 1796.]

Why, then, delay definite action on the question of admission until the next session? Why keep the question open to be brought up here at the beginning of the next Congress, when we may have again a protracted debate, connected with a critical examination of the constitution of the new State by Congress? I wish it to be particularly noted, that the proposition submitted by myself, and greatly preferred, differs from all the others for the admission of Texas in several important and essential particulars. It is *conclusive* for the admission of Texas as a new State *at an early day certain.*

It provides that the new State shall adjoin existing States of this Union, shall be embraced in *definite* boundaries, and not exceed a maximum area, (say seventy thousand square miles,) equal to the territorial limits of the largest State.

It avoids the assumption of the power to inspect, revise, and dictate the provisions of a State constitution.

It is not incumbered with complicated provisions about future States and cessions of territory. Texas once admitted into this Union, and an agreement concerning her residuary territory may be readily and satisfactorily adjusted.

It contains no provision for cessions, with or without compensation, within the new State. Texas once admitted, the powers of the constitution are ample for the settlement of cessions of places for public purposes, and for the transfer of property.

I wish it to be observed and remembered that my plan conforms precisely to the precedents in the cases of Kentucky, Vermont, and Tennessee.

It is a plain, disencumbered admission of a new State, fixing the number of representatives, and extending the laws of the United States over it and its territories.

True it is, also, that no reference is made to any existing debts against the republic of Texas, or to any which may be due to it. The subject of debts, contracts, and obligations, is left unaffected by the act of admission. The debts of the people of Texas, contracted by the existing government, will continue in full force notwithstanding a modification of the organic law, and notwithstanding the union formed with these States. Texas continues to exist as an independent political community; and admission neither relieves that community or State from its obligations, nor imposes them on the United States. Nor do the United States in any way directly or impliedly become responsible for the previous or subsequent debts of the State. All contracts and liabilities will remain in full force. No right of any creditor will be postponed, impaired or defeated. On the contrary, it seems apparent that the new State will be in a more favorable condition to apply her resources to the payment of her creditors and the improvement of her internal condition. As one of the United States, Texas will be relieved from the heavy expense of separately supporting a standing army, and maintaining a navy. Embraced in the common defence of the whole Union, wisely committed to the federal government, with assured protection in all emergencies, with a rapid increase of population and rapid augmentation of wealth, the new State will soon fulfil all its engagements, will preserve the public credit, will grow strong in public confidence, and advance rapidly, from its situation, in agricultural and commercial prosperity. The admission of Texas, with all the consequent advantages, will operate eventually to the benefit, rather than the injury, of creditors; and in no view of the question will the act create any liability on the part of the United States, which would not be incurred in the admission of any other State into this Union. The new State can best ascertain and settle her debts; can best do both justice to herself and to the creditors.

But an argument against the admission of Texas as a new State, commencing with the gentleman from Maryland, [Mr. KENNEDY,] and most emphatically reiterated by the gentleman from Kentucky, [Mr. DAVIS] is founded in the bold assertion that Texas being a foreign State, if admitted into this Union, will have no citizen who can constitutionally be a representative or a senator; that there will be in the new State no citizens *who have been seven or nine years citizens of the United States*, although inhabitants of the new State in which they shall be chosen.

(See constitution of the United States, article 1st, sec. 2 and 3.)

I believe that the position of those affirming the validity of this objection is fairly stated. I certainly have no wish to mistake or evade it. I will not deny that it is an objection, *prima facie*, entitled to consideration; that it is one that would readily and naturally suggest itself to an inquiring mind. But it does seem, also, that a mind imbued with a consideration of the true principles upon which the States formed this Union by the establishment of the constitution between the parties so ratifying it, and applying equally to States subsequently admitted, would easily relieve itself from a first impression, and discern that the objection was superficial, and must disappear before the operation of the true principles of the Union of these sovereign and independent States.

Let it be premised, however, that it is a difficulty started in advance to defeat the exercise of a power which we have shown, as we think conclusively, to reside in Congress, to admit Texas as a new State. If we, *this Congress*, have the power to admit Texas as a new State into this Union, shall we boggle about its exercise, because we are threatened that, after admitted, the new State cannot constitutionally be represented in the House or Senate? If we have the power, under the constitution, to admit this new State, we should inquire only into the propriety of exercising that power, and not stumble at difficulties which may arise in another Congress.

Texas once admitted, it is her province to elect senators and representatives who shall be eligible to the places for which they are chosen. It will belong to the next Congress—that is, to each branch of it—and not to us, to decide whether the senators and representatives chosen are qualified under the constitution to hold their seats.

Doubtless that young republic, converted into a State of this Union, in selecting senators and representatives, will find inhabitants thereof who *shall have been seven* and nine years citizens of the United States. Admit Texas, and it is her duty and her right to find senators and representatives capable of holding their seats; and it is prematurely

pragmatical in *this* Congress to decide that the new State of Texas can find nobody, in all her borders, who has the qualification to represent her in either House in the *next* Congress.

It will be the business of the new State, and of the next Congress, to decide these anticipated and suggested difficulties. It is no part of *our* business or duty to make the decision in advance; and therefore it ought to weigh not at all with this Congress, on the inquiry, Can Texas be constitutionally admitted as a new State?

But, in reference to the inhabitants of Texas, it is notorious that they have emigrated from the United States, and most of them *have been* seven and nine years citizens of the United States. The objection would not apply to any one who *had been* the seven or nine years a citizen of the United States; and, at the time of election, an *inhabitant* of Texas.

Peculiar circumstances of emigration and settlement and citizenship in Texas, connected with previous citizenship in the United States, dissipate the objection urged. I shall not discuss the right of expatriation or simple emigration. I shall not examine the doctrine whether a citizen voluntarily removing from his own country, and undertaking the duties of a citizen of another country, thereby conclusively and irrevocably loses his citizenship. I shall not deny that citizens may disconnect themselves from the country—may place themselves beyond its recognition and protection. Still, however, citizens may have removed who have not *formally* expatriated themselves—who have, nevertheless, abandoned their country—who have voluntarily put themselves out of the pale of protection, and released their original government from responsibility for their actions. In every and in all possible cases where any such citizen may return within the limits of his country, (the United States,) or may even be found or embraced within the limits of the United States, he is emphatically *redintegrated;* he stands as if he had always been a citizen; he is restored to his original position of a citizen of the United States, and counts his rights and his eligibilities from his *first citizenship or birth.*

What has been thus laid down, is sufficient to remove all difficulties in relation to Texas. We want, however, some general principle available at all times, and not peculiarly applicable to the circumstances of Texas; and that general principle is found in the *virtue of admission into this Union.* The political community, *admitted* as a State into this Union, comes into the Union with its citizens constructively, ay, positively, citizens of the United States. The admission of a State into this Union is a wholesale introduction of all its citizens to citizenship of the United States, without the formal process of individual naturalization. No State can exist without citizens thereof—the citizens compose the State as a political community; and the *admission* of a State, necessarily, *ex vi termini,* admits all the citizens of that State "to all privileges and immunities of citizens in the several States." Can a *native* be *naturalized?* Certainly not. Our naturalization laws apply to aliens born, who have migrated into this country, and have some foreign power to renounce. *Naturalization* is an individual admission of emigrant foreigners to this country to the rights and privileges of citizenship. *Admission* is the introduction, by a single act of Congress, of all the members of the new States to the rights and privileges of citizens of the United States. It must be so. If the State is admitted, it is an *admission* of the co-equal rights of all its citizens. If Texas be admitted as one of these United States, then a citizen of Texas, with no curtailment of right or privilege, may count his citizenship of Texas from its commencement, by birth, naturalization, residence, or other circumstance; and that computed citizenship of Texas as one of the States applies to the United States, of which Texas is one in our argument. *Naturalization* of individuals, and *admission* of States, differ in this: that naturalization is an individual operation, whereby individuals claim a right only from the date of naturalization; *admission* is an introduction of an entire political community into this Union upon equal footing with the other States. Citizenship, therefore, remains; and is counted from its commencement in the State admitted—it relates back to its origin there—without allowing that it is interrupted or abolished by the act of admission. Hence the citizen of Texas would count the term of his citizenship from the beginning, and not from the act of admission. Texas comes in with its citizens, and their citizenship dating from its commencement; and this construction is essential, or was essential, to the successful commencement of this govment. There were citizens of the several States before the adoption of the federal constitution; but when it was adopted, who in the whole Union had been seven or nine years a citizens of the United States, of any one or all the States thus and then united?

If this inquiry should not apply to the eleven States who first ratified, it may be well asked of those two States who became members after this Union had been formed, whether they had any citizens who had been nine or seven years citizens of the United States.

North Carolina and Rhode Island had, as we have seen, become foreign States. When they became members of the United States by ratification, where were their citizens who had been seven and nine years citizens of these United States? When Vermont was admitted, she had been up to the time of admission *foreign* not only to the United States, but foreign also to each State. Did any body ever suppose that, on the 4th day of March, 1791, when she came into this Union, she had no citizens eligible to the House of Representatives or the Senate?

Mr. Dromgoole desired, in conclusion, to make a few remarks on the subject of slavery and the compromise, topics, which had been introduced into this discussion. I could have wished (said he) that such discussions might have been avoided on this occasion. They may contribute to mutual irritation—may serve to excite the passions and arouse prejudices; but they have no influence in promoting a harmonious preservation of the Union. In the plan which I have proposed, there is no provision inserted relating to these matters. It is an ungracious business to require the republic of Texas to abolish her domestic institutions, in whole or in part, as a condition precedent to her admission into the Union. It was not required originally of any of the States. The existence of slavery within a State, regulated by the laws of the State, constituted no insuperable difficulty in the origin of this Union. Representation and taxation were discussed in connection with it, and a satisfactory adjustment of those subjects effected. But no hint or intimation, much less a demand, was made that this institution ought to be abolished. Why, then, make it a pre-

requisite as to the independent State of Texas? Still, however, if one State, with definite boundaries, should be admitted, it might then be unobjectionable to propose to such State that the same regulation should apply to any part of the residuary territory lying north of the line of thirty-six degrees and thirty minutes of north latitude, which has been established in the territory of the United States lying north of the same line, on the subject of slavery. And there let the regulation remain undisturbed, in all future time, in its application to our progress. Then our great purposes might be successfully pursued in peace and harmony, free from the mischievous agitation of a sectional and domestic question. If it is not wickedly designed to divide this Union through collision on a subject which was not permitted to obstruct its formation, let us forfear unnecessary controversy and provocation—let us not essay new experiments—let us not interrupt an admitted *compromise*. Gladly, and with confidence of success, would I make such an appeal to the whole American people. I would invoke them as friends to the *peaceful* preservation of our glorious Union to make a truce with slavery. It was not incompatible with its formation; it ought not to be permitted to interrupt its continuance and growth. Let the compromise stand. South of 36 degrees and 30 minutes north latitude slaveholders and non-slaveholders may alike settle and enjoy their rights; and may, if so inclined, form new States excluding slavery therefrom. North of that line slavery is forever interdicted; and the slaveholder, as such, excluded from migration and settlement. Where slavery already exists in a State, we have no right, under the constitution, to require its abolition before admission. It is no compromise with Texas to establish this line. It is imposing a hard condition, and requiring concession and surrender of right never before required. It may, however, be reasonably supposed that Texas will accede to it, because it conforms to an existing regulation of the Union of which she is to become a member, and accomplishes a continued uniformity. Let us no longer disturb our councils, and endanger our Union, with a subject over which we have no constitutional control; let slavery be left, as a domestic institution, to the regulation of those immediately interested in it, and to the operation of natural causes. With such an understanding, and with reconciled feelings, our Union will prosper, and may be extended in peace and security. And whatever may be the decision of this Congress, I shall, with an abiding confidence, believe that, among the sincere and stedfast friends of the perpetuity of the Union, there will grow up one general determination to hold sacred this established line as a permanent basis of compromise upon a delicate question, with a patriotic resolve that it shall never again distract our deliberations or impede our national progress.

The gentleman from Vermont, [Mr. COLLAMER,] it appears to me, took a very narrow and peaked view of this matter, when he adverted to the map of Texas, to show how small and contracted a portion would be reserved for settlement by emigrants from the non-slaveholding States. Proposing as we do to incorporate Texas into the Union, we should cast our eye over the whole country, as it will present itself to our view, after this addition. Look to the whole region of country north of this line back to the British settlements. Wisconsin, the last of the northwestern cession, yet to be admitted as a State, is sufficent for an empire. Iowa, lying beyond the Mississippi river, is about to enter the Union, soon to become, from the fertility of its soil, and the extent of its boundaries, a populous and influential State. North of Iowa, two other States may hereafter be formed. Look to the residue of our country extending across the upper waters of the Missouri to the eastern base of the Rocky mountains. It is impossible to survey these vast regions even on the map, and not perceive at a single glance, that in our future progress of population and admission of States, our non-slaveholding brethren are destined to a certain and increasing ascendency. Shall we wrangle, then, on this topic of slavery, and thereby lose a favorable opportunity of effecting a great national desideratum—the completement of our southern boundary on the Gulf of Mexico? Consider this magnificent country lying between two immense systems of mountains—one vast vale or plateau of lands of unparalleled fertility, and reaching from the frozen regions of the north, where its waters interlock with those of the Artic ocean, down to the sunny plains of the South. Who that looks at it, and contemplates its northern extent and expansion, does not perceive the necessity of widening our gulf boundary, so as to make it commensurate with the whole valley proper of the Mississippi? Shall the question of slavery stand in the way of its accomplishment?

The common interest in the continuous navigation of all the rivers from one extreme to the other will forever bind together the inhabitants of this valley, and overcome any repulsive feelings produced by the existence of slavery. Look at the map of the Gulf and the circumjacent territory; conceive a line drawn from the southern and eastern Cape of Florida to the Del Norte or its neighborhood, and say if there is not thus formed a natural gulf or bay, midway into which the Mississippi river empties the confluent waters of the vast valley, and which we ought to secure. We shall thus have completed our possessions and boundary of the most remarkable region on the face of the globe, watered by the longest rivers in the world, and having the most extensive, connected, and ramified inland navigation,—capable of becoming the granary of all nations, and holding together from its greater population and central advantages, this mighty confederacy in its broad extent from the Atlantic to the Pacific ocean.

And surely it ought to weigh with the non-slaveholding States, that there will be secured for settlement to them—that delightful region of Oregon—sloping from the western base of the Rocky mountains to the Pacific, and embraced between forty-two degrees and fifty-four degrees and forty minutes north latitude. Surely we ought to agree to move harmoniously along the gulf, and on the Pacific. Avoiding disturbing causes, and our Union may be preserved, extended, and strengthened. And it should be a source of just pride and patriotic reflection, that *this Union*, as formed by the establishment of the constitution originally, will be perpetuated, and that the latest posterity with just exultation may continue, in the language of that sacred instrument, to call it "*This Union*"—*this Union* still, although *new* States have been admitted into it "by the Congress."

APPENDIX.

JANUARY 8, 1845.

Mr. DROMGOOLE, on leave, introduced the following bill:

A bill declaring the consent of Congress that a new State be formed within the jurisdiction of the republic of Texas, and admitted into this Union.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Congress doth consent that a new State may be erected within the jurisdiction of the republic of Texas adjoining the States of Louisiana and Arkansas, and bounded also by the gulf of Mexico, with a republican form of government, to be adopted by the inhabitants of said republic, assembled by deputies in convention, with the consent of the existing government, in order that the said new State may be admitted into this Union.

SEC. 2. *And be it further enacted*, That the foregoing consent of the Congress is given upon the following conditions, to wit: That the new State shall be formed, and its government adopted, prior to the fourth day of July in the present year; and that the boundaries of said new State, conforming to the outlines before stated, and containing an area not exceeding seventy thousand square miles, shall be defined by the convention of deputies, and inserted in the constitution or form of government; and that the assent of the State shall be also inserted to such boundaries of the remaining territory, properly pertaining to Texas, and to be claimed and held by said new State on superseding the present government as may be settled and defined by the government of the United States, by negotiation and treaty, or otherwise.

SEC. 3. *And be it further enacted*, That on the aforesaid fourth day of July, in the present year, the said new State, having been thus formed and defined by the name and style of the State of Texas, shall be received and admitted into this Union as a new and entire member of the United States of America.

SEC. 4. *And be it further enacted*, That the State of Texas, when admitted into this Union in conformity with the provisions of this act, shall be entitled, and continue to be entitled until the next general census, to two representatives in the House of Representatives of the United States; and in all other respects, as far as they may be applicable, the laws of the United States shall extend to, and have force in the State of Texas, and all the territory properly claimed and belonging to the same, in the same manner as if that State, with its claims to other territory, had originally been one of the United States.

SEC. 5. *And be it further enacted*, That the President of the United States, so soon as he shall be informed that the State of Texas has become entitled to be received and admitted into this Union in conformity with the provisions of this act, shall cause the same to be publicly made known by proclamation; and shall, at the commencement of the first session of the twenty-ninth Congress, lay before both houses all the proceedings received by this government, which shall have taken place in pursuance of this act.